

June 28, 2007

**TESTIMONY OF
CATHY FINK
Recording and Performing Artist**

Thank you, Madam Chairman, for inviting me to this important hearing. My name is Cathy Fink. I am a musician, recording artist, songwriter, music producer, teacher, author, artist member of SoundExchange, and long-time member of the American Federation of Musicians.

My partner, Marcy Marxer, and I have performed, recorded and produced a wide range of music – including folk, old time country, swing, bluegrass and children's music that exemplifies all these styles and more – as a duo for the past twenty years. We have been Grammy finalists ten times and won the Grammy award for Best Musical Album for Children in 2004 and 2005.

I would like to share with the Committee the economics of our art and our profession. The creation of a sound recording takes a huge investment of time, talent and energy. Like any other entrepreneurs, we are making financial investments. In my case, there is our home studio. Ours is not elaborate, but is not cheap to create or maintain. I estimate that we've invested about \$40,000 in our home studio.

All of our recording projects also require us to rent time in commercial studios – at about \$100 per hour – and to pay engineers who do the studio work. And when we hire musicians to work on an album, we must pay them as well – the fundamental principle being that when people do the work, they should be paid for it.

Like any other small business, we also endure organizational and administrative tasks as well – the paperwork associated with hiring musicians, paying taxes, booking tour engagements, handling mail orders, public relations for concerts and more. For the last ten years, in fact, we have freed up creative time by hiring a full-time office manager. We pay her salary and provide health benefits. We also pay rent on the office space she occupies – an office with phone, fax, computer, high-speed Internet, furniture and the like.

And then there are our instruments. They, too, are investments. In our own case we play so many different instruments on our albums that we have a large collection, many of which are expensive. For example, a well-made acoustic guitar can cost from \$2,000 to \$10,000.

We have made our way by pursuing a wide range of professional activities. Live performances are an important part of our income as well as of our art. We perform anywhere from 75 to 250 shows per year. Many of them involve travel, and all involve

certain costs – but they all involve an opportunity to connect with live audiences and to sell our CDs in person. But selling CDs alone is not enough to support us. Frankly, it can take several years to recoup the costs of each project.

The royalties we receive from SoundExchange have been very welcome and valuable to us. To date, these payments have been fairly modest, but they are making a real difference to us. For example, the amount we've received from SoundExchange this year can cover a major expense, such as the annual cost of insuring our equipment and instruments.

We think of ourselves as a small business, and would encourage you to see us that way. It is of course a very creative business, and one about which we are extremely passionate. Our music is a valuable creation, and it is the core of that business. Like any other product, it deserves fair compensation.

Last year I was proud to testify before the Copyright Royalty Board about Internet royalty rates. I thought it was incredibly important that the judges understand the investments of time and money that we performers make in our work. These were very thorough and comprehensive hearings. I believe the royalty fees that were ultimately set by the Board reflected the value of the recordings that are at the heart of the webcasting and simulcasting business models the judges examined so carefully.

Under the CRB decision, at 2007 rates, recording artists and record labels will be paid 65 cents in royalties for supplying webcasters with a month's worth of music for an average listener who streams 40 hours of music a month. These were rates that the Copyright Royalty Judges determined were fair after reviewing testimony from all participants, including proprietary financial information to which no one else had access. I want to say it loudly and clearly, the Copyright Royalty Board was an impartial panel, set up by Congress, that conducted a fair and painstaking proceeding. There truly is no valid complaint about process. It really comes down to money: Big webcasters want to pay us less than what the judges determined was fair, 65 cents a month.

As you know, recording artists and labels have already, at the request of Congress, offered a discount rate to small webcasters to help them grow their businesses. This discount rate, which comes out of the pockets of people like me, will essentially freeze the rates small webcasters pay through 2010 at the same subsidy levels they have enjoyed since 1998. There's a bottom line here: Without the talent, hard work and sacrifice of recording artists, there would be no music to play, and no music to build the assets of webcasters' businesses. It embraces a simple principle – that we deserve to be paid for our work.

If I may, I would like to make one more point. A couple of weeks ago I happened to read in the newspaper that last.fm was purchased by CBS Corporation for \$280 million. I asked SoundExchange about that. I found out that Lastfm got a discounted rate as a small webcaster and paid less than \$5,000 in royalty rates last year. I then asked SoundExchange how much of that \$280 million will be shared with those of us who

create the music that helped build Last.fm into such a desirable company. As you might have guessed, the answer is zero.

Madam Chairman, Members of the Committee, we've had a long and successful career in this business. We hope that, with your help, and with the help of this Congress, it will continue for many years to come. Thank you.

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